IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2908 of 1988

For Approval and Signature:

Hon'ble MR.JUSTICE D.A.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

KUMARI NM VYAS

Versus

STATE OF GUJARAT (DELETED)

Appearance:

MR KH DAMANI for Petitioner

Respondent Nos. 1 and 2 deleted

MS KATHABEN GAJJAR, A.G.P. for Respondent No.3

CORAM : MR.JUSTICE D.A.MEHTA

Date of decision: 16/03/2001

ORAL JUDGEMENT

The petitioner was appointed as Staff Nurse by the Competent Authority in the year 1972 and was granted selection grade by the Director of Medical Services. Thereafter, it appears that in 1974, 1980 and 1981 various selection grades were granted to the petitioner. However, the grievance of the petitioner is that no pay fixation according to the aforesaid orders giving selection grade was made till the date of filing of the petition. The petitioner has further made a grievance that she has not been paid arrears of increment for the

years 1983, 1984, 1984 and 1986 alongwith Dearness Allowance, in spite of the fact that the increments for the years 1983 to 1986 have been released.

2. In so far as the prayers relating to nonpayment of charge allowance, dearness allowance of 1984 and leave salaries are concerned, no cause of action survives in light of affidavit-in-reply filed on behalf of the respondent. It is specifically averred in affidavit-in-reply that the petitioner has been duly paid charge allowance of Rs.2055.90; that she has been paid leave allowance of Rs.2866.60 and difference of additional D.A. for the year 1984 has already been paid to her.

3. In paragraph two of the affidavit-in-reply it is stated "The petitioner was paid the sanctioned amount, which was payable to her, because of selection grade in the office of the Civil Surgeon, Porbandar on 19/12/1983. I refer to and rely on the receipt issued by the petitioner in this regard."

4. In light of the aforesaid categorical averments in the affidavit-in-reply which was served on the advocate of the petitioner on 07/02/1989 and in absence of any affidavit-in-rejoinder till date, we find that the petitioner would have no grievance which would now survive. The petition is of the year 1988 and in spite of the fact that the same was called out twice, there is no appearance on behalf of the petitioner.

5. In view of the foregoing facts and circumstances, this petition is disposed off as infructuous and rejected accordingly with no order as to costs. Rule discharged.

(D.A. Mehta, J)

(Bhavesh)